

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Ameren Transmission Company of Illinois	}	
	}	
Petition for a Certificate of Public Convenience	}	
and Necessity, pursuant to Section 8-406.1 of	}	
the Illinois Public Utilities Act, and an Order	}	
pursuant to Section 8-503 of the Public Utilities	}	Case No.: 12-0598
Act, to Construct, Operate and Maintain a New	}	
High Voltage Electric Service Line and Related	}	
Facilities in the Counties of Adams, Brown, Cass,	}	
Champaign, Christian, Clark, Coles, Edgar,	}	
Fulton, Macon, Montgomery, Morgan, Moultrie,	}	
Pike, Sangamon, Schuyler, Scott, and Shelby,	}	
Illinois.	}	

**BRIEF ON EXCEPTIONS OF THE MORGAN, SANGAMON, AND  
SCOTT COUNTIES LAND PRESERVATION GROUP**

NOW COMES the Morgan, Sangamon, and Scott Counties Land Preservation Group (hereinafter referred to as “MSSCLPG”), by and through its attorneys, Edward D. McNamara, Jr. and Joseph H. O’Brien of McNamara & Evans, and for its Brief on Exceptions to the Proposed Second Order on Rehearing (hereinafter referred to as “PSO”) issued herein by the administrative law judges on January 17, 2014, states as follows:

1. Strictly on a numerical basis, after considering the twelve-criteria analysis, following the existing 138 kV line (MSCLTF Route) is the clear winner. It is 18.3 miles shorter than the Rebuttal Recommended Route (ATXI Route) and has the obvious benefits of less cost to construct and less impacted land. The Commission must weigh these various obvious benefits against the assertion by ATXI that “the operational reliability and maintenance issues outweigh factors supporting the [MSCLTF] Route.” (ATXI Initial Brief on Rehearing, 15) ATXI goes on to cite “the horrific tornadoes that tore through Central Illinois this past November make clear the risk facing AIC customers.” (Id.)

2. ATXI has the burden of proof in this case. Scott v. Dept. of Commerce and Community Affairs, 84 Ill. 2d 42, 53; 416 N.E.2d 1082, 1088; 1981 Ill. Lexis 229 at 14; 48 Ill. Dec. 560 (1981). Additionally, there is certain evidence that is within the control of ATXI and not equally available to MSSCLPG, or any other party to this case, that ATXI has failed to produce. This gives rise to a presumption that such evidence would be unfavorable to ATXI. Tepper v. Campo, 398 Ill. 496, 76 N.E.2d 490 (Ill., 1948). MSSCLPG submits that ATXI would certainly possess evidence as to the costs of eliminating, or at least lessening, any reliability issues. ATXI would certainly possess evidence within its control as to maintenance issues and could quantify the costs related to those issues for that segment between Meredosia and Pawnee, Illinois. ATXI could have produced such evidence. ATXI has chosen not to do so. It can be presumed that such evidence would be unfavorable to ATXI.
3. As to the reliability issue, ATXI makes the basic argument against putting all of one's eggs in one basket. MSSCLPG would argue that following the existing line presents a much smaller target for catastrophic outages. First, the existing 138 kV line (MSCLTF Route) and the ATXI Route follow each other side-by-side for approximately four miles running east of Meredosia. Eliminating those miles from the equation, we find 25% less line is subject to storm damage or any other potential cause for an outage by following the MSCLTF Route. MSSCLPG Expert Witness Steve Lazorchak testified herein that the "shorter the line, the less chance of lightning strikes, storm, and airborne debris putting the line out of service. (MSSCLPG Exhibit 12.0, 2:37-38) Likewise, referring to MSSCLPG Exhibit 11.2 which was introduced into evidence herein, we find that there exist 126 structures along the ATXI Route within 500 feet, and only 30 structures within 500 feet of the existing 138 kV line. In

the event of storm damage, there exist more than four times the potential for buildings within 500 feet of the power line becoming “airborne debris” and hitting the line. This is based upon the evidence and evidence that is equally available to all parties. What we do not have is evidence from ATXI as to how it would build the proposed line paralleling the 138 kV line. ATXI has asserted that it can and will build the line along the existing 138 kV corridor if ordered to do so by this Commission. What we do not have is the cost of building any additional reliability into the system between Meredosia and Pawnee as a result of the paralleling. ATXI asserts that paralleling is acceptable in other portions of the route where the line is more robust. In this case on rehearing it is clear there exist two viable choices. Certainly ATXI would have the ability to quantify in a dollar amount the cost of any additional safeguards that might be reasonably necessary to ensure reliability. ATXI has the burden of proof and has the availability of proof in this case to demonstrate to the Commission that it is simply not cost-effective to build the proposed line parallel to the existing 138 kV line. It can only be presumed that, once all the numbers are crunched, ATXI can construct the new line along the route of the existing 138 kV line at a cost savings.

4. In addition to operational liability, ATXI cites maintenance issues as favoring the ATXI Route. As with reliability issues, there exists certain evidence ATXI could have produced but did not produce in this case. One clear fact we do have, a fact that is available to all of the parties hereto, is the difference in the amount of line that must be maintained, 18.3 less miles. Mr. Lazorchak pointed out a further advantage to maintaining the parallel lines. Mr. Lazorchak testified that, “[i]n general, if the 138kV corridor has been properly cleared and maintained, the adjacent 345kV corridor should be easier to access and clear. Construction equipment staging and material storage may utilize the existing 138kV corridor.

Vehicular/equipment access should be easier along an existing corridor. It is easier to perform vegetation control and line maintenance on the adjacent rights-of-way.” (MSSCLPG Exhibit 12.0, 3:55-59) ATXI would have the Commission adopt the Rebuttal Recommended Route in part because of maintenance issues. ATXI could and should have brought forth evidence as to the cost of maintaining the two routes over a reasonable period of time. As cited above, MSSCLPG has come forward with certain evidence within the knowledge of its expert witness. Certainly ATXI would have evidence as to the cost differential between maintaining parallel lines versus two single stand-alone lines.

5. MSSCLPG has tendered Steve Lazorchak, P.E., CEM, as its expert witness herein. Mr. Lazorchak has presented testimony on direct, rebuttal, and sur-rebuttal. ATXI chose not to cross-examine Mr. Lazorchak. No-one has questioned the credentials or opinions of Mr. Lazorchak. No-one has come forward to present testimony in opposition to the opinions of Mr. Lazorchak. Mr. Lazorchak’s opinions go un-rebutted. Mr. Lazorchak limited his opinions to what appeared of record in this case and to general engineering principles. Prior to presenting his direct testimony in this case, Mr. Lazorchak reviewed the record to date, giving particular attention to that segment of the project between Meredosia and Pawnee. Mr. Lazorchak was unable to find any compelling reason to ignore the fact that the MSSCLPG advocated route would cost \$36.78 million less to construct and would produce an 18.3-mile shorter route. Mr. Lazorchak presented his rebuttal testimony after having reviewed the direct testimony on rehearing of Jeffrey Hackman. [ATXI Exhibit 2.0(RH)] Mr. Lazorchak was asked on rebuttal if, from an engineering perspective, and after having reviewed the testimony of Mr. Hackman, he could identify any justification for the expenditure of the additional \$36.78 million to construct the ATXI Route. Mr. Lazorchak

responded that he could find no such justification. (MSSCLPG Exhibit 13.0, 1:11-17) Mr. Lazorchak further presented sur-rebuttal testimony after having reviewed all of the direct and rebuttal testimony filed in this matter by both ATXI and Commission Staff. As mentioned above, ATXI does not challenge the opinions of Mr. Lazorchak. ATXI asked Mr. Lazorchak no questions on cross-examination.

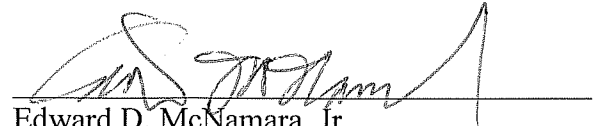
6. The PSO disregards the testimony of Commission Staff Greg Rockrohr. Mr. Rockrohr is the only expert witness in this case who would approach the matter from an unbiased perspective. No-one has questioned Mr. Rockrohr's credentials. Much like Mr. Lazorchak, Mr. Rockrohr relied upon evidence in the record and general engineering principles. Mr. Rockrohr has been involved in this case since its inception. In fact, Mr. Rockrohr was present during a two-day flyover of the route at the behest of ATXI. In his rebuttal testimony, when asked why ATXI objects to using the shorter and less costly MSSCLPG Route, Mr. Rockrohr testified as follows: "Ms. Murphy explains that it is ATXI's preference that the proposed 345 kV transmission line not parallel the existing 138 kV transmission line because other route options are available. Mr. Hackman explains his concern that, though ATXI can construct the proposed transmission line parallel to existing lines, and sometimes proposes to do so, 'It is easier for both lines to go out, or to be taken out, when they are close together.' Mr. Hackman explains that, when ATXI proposes to parallel existing transmission lines, it does so because environmental, societal, and land use issues outweigh the reliability, operations, and maintenance concerns that result from constructing parallel lines in close proximity. While I agree that the factors Mr. Hackman mentions should be considered prior to finalizing transmission line routing, ATXI's testimony that it opposes the MSSCLPG Route based upon a preference, or a unilateral weighing of various factors, is not convincing.

Installing the proposed 345 kV line parallel to the existing 138 kV line, as MSSCLPG proposes, would substantially reduce the length and cost of the project, and would cause the proposed transmission line to affect fewer landowners. In addition, the MSSCLPG route and ATXI's Alternate Route would equally comply with North American Electric Reliability Corporation ("NERC") Reliability Rules." (ICC Staff Exhibit 3.0, 2:37-3:56) Mr. Rockrohr cites an accepted engineering standard. No-one has questioned the applicability of this engineering standard.

7. It appears that in the final analysis, ATXI argues all other factors are outweighed by the issue of reliability and maintenance. ATXI has the burden of proof. As to reliability, ATXI simply argues that storms occur and these storms cause reliability issues. It would certainly appear that ATXI could have come forward with evidence stating that the costs of eliminating these reliability issues would exceed the approximately \$36.78 million difference in initial construction costs. Perhaps ATXI could have come forward with figures indicating that the cost of the eliminating reliability factors, and additional maintenance costs, would in sum total exceed the approximately \$36.78 million difference in initial construction costs. Based upon the principles above, ATXI has the burden of proof. Such evidence is within the control of ATXI and not equally within the control of intervenors or Staff. It can be presumed that such evidence would be adverse to ATXI.
8. MSSCLPG certainly appreciates the Commission concerns as to reliability. It is ATXI's burden in this case to prove that its proposed route is the least-cost option. ATXI should not be able to simply raise a concern as to reliability, and perhaps maintenance, and have such argument carry the day without good, hard evidence. ATXI has not met its burden of proof. The Commission in this case can reach two just conclusions. (1) It can order construction

of the line along the existing 138 kV line corridor. (2) It can simply deny ATXI relief for that portion of the project between Meredosia and Pawnee and require that ATXI return to the Commission and attempt to meet its burden of proof.

**Respectfully Submitted,**  
**Morgan, Sangamon, and Scott Counties**  
**Land Preservation Group,**  
By and through its attorneys,

  
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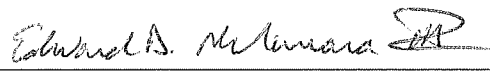
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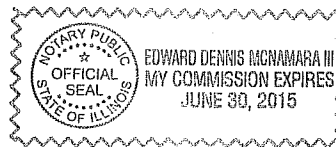
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Edward D. McNamara, Jr., being first duly sworn, deposes and says that he is authorized to execute this Brief on Exceptions; that he has read the above and foregoing document, has knowledge of the facts stated therein; and herewith states that the matters set forth therein are true in substance and in fact.

Subscribed and Sworn to before me  
this 29th day of January, 2014.

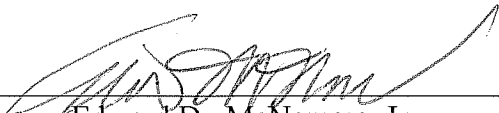
  
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Edward D. McNamara, Jr.

  
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Notary Public



**CERTIFICATE OF SERVICE**

Edward D. McNamara, Jr., an attorney, hereby certifies that he served copies of the foregoing Brief on Exceptions on the individuals shown on the attached Service List, via electronic mail, on January 29, 2014.

  
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